

## REMARKS

By the above amendment, informalities in the specification have been corrected.

As to the rejection of claims 1 - 3 under 35 USC 103(a) as being unpatentable over Sekiguchi, Figure 22 in view of Sekiguchi, Figure 7; the rejection of claims 5 - 7 under 35 USC 103(a) as being unpatentable over Sekiguchi in view of Sakaguchi; and to the rejection of claims 8 - 11 under 35 USC 103(a) as being unpatentable over Sakaguchi in view of Sakaguchi; such rejections are traversed and reconsideration and withdrawal of the rejections are respectfully requested.

As to the requirements to support a rejection under 35 USC 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under '103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be

remedied with conclusions about what is "basic knowledge" or "common knowledge".

The court pointed out:

The Examiner's conclusory statements that "the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

Turning first to the rejection of claims 1 - 3 under 35 USC 103(a) as being unpatentable over Sekiguchi, Figure 22 (which represents one embodiment of Sekiguchi (US Patent No. 6,529,255) in view of Sekiguchi, Figure 7 (which represents a different embodiment of the patent), applicants submit that the Examiner has engaged in a hindsight reconstruction attempt in taking bits and pieces from different embodiments, which the inventor Sekiguchi disclosed as different embodiments having different features, contending that it would have been obvious to combine the same, and such combination is contrary to the disclosure and teachings of Sekiguchi. Irrespective of the Examiner's contention that Sekiguchi in Figure 22 discloses "a liquid crystal display device having various features including pixel regions arranged in a matrix (Fig. 17)", applicants note that Figure 22 represents a ninth embodiment of Sekiguchi (see column 20, line 28 et. seq.) while Figure 17 represents a seventh embodiment (see column 17, line 16 et. seq.). In any event, neither Fig. 22 and, or in particular, Fig. 17, disclose pixel regions arranged in

a matrix in that Fig. 17, as described at column 17, lines 40 - 42, disclose "a seven-segment type liquid crystal display device" which is not a disclosure of pixel regions arranged in a matrix, as disclosed and claimed in this application. Furthermore, the Examiner apparently contends that Figure 22 of Sekiguchi also discloses "the reflecting film having at least one light transmission aperture (50a) in each pixel region and without slits at positions corresponding to gaps between adjacent ones of the pixel regions". (emphasis added). As noted above, Sekiguchi in Figures 22 and 17 does not disclose pixel regions arranged in a matrix, and provides no disclosure or teaching with regard to such figures that slits are not provided at positions corresponding to gaps between adjacent ones of the pixel regions. In this regard, the claimed features of claims 1 - 3 of this application are directed to the structural arrangement as illustrated in Figs. 1A and 1B of the drawings of this application, which is contrasted with the structural arrangement of Figs. 2A and 2B of this application, for example, wherein the reflecting film T/R is provided with slits SLT at positions corresponding to gaps between adjacent ones of the pixel regions whereas Figure 1A and 1B shows that the reflecting film does not have slits at positions corresponding to gaps between adjacent ones of the pixel regions, while having at least one transmission aperture AP in each pixel region. As described in the paragraph bridging pages 13 and 14 of the specification, as amended, when a backlight that is provided on the backside of the liquid crystal display panel is turned on, leakage of light through the gaps between the first electrodes IT01 can be prevented. This increases the contrast in the transmission light mode. Thus, applicants submit that Figure 22 of Sekiguchi fails to provide a reflecting film 50 without slits at positions corresponding to gaps between adjacent ones of the pixel regions. On the other hand, Sekiguchi discloses a matrix type display and a display

electrode 15 in the form of a reflecting film having openings 15a therein, as shown in the first embodiment of Sekiguchi in Figures 1 and 2 thereof, wherein the reflecting film 15 has slits between adjacent pixel regions, as clearly illustrated in Fig. 1 thereof. Thus, in the first embodiment of Sekiguchi, which provides a matrix type display, Sekiguchi does not disclose the provision of a reflecting film without slits at positions corresponding to gaps between adjacent ones of the pixel regions. Likewise, Figure 26 which illustrates a twelfth embodiment of Sekiguchi discloses a matrix-type liquid crystal display panel having a reflecting film 50 formed between a display electrode 5 and the substrate 1 with openings 50a (see column 23, lines 4 - 18). It is apparent that the reflecting film 50 has slits between adjacent pixel region, and therefore, Sekiguchi does not disclose the provision of a reflecting film without slits at positions corresponding to gaps between adjacent ones of the pixel regions, as disclosed and claimed in claim 1. As such, applicants submit that claim 1 patentably distinguishes over Sekiguchi in the sense of 35 USC 103 with respect to the aforementioned features.

The Examiner indicates that Sekiguchi in Figure 22 does not disclose expressly color filter layers which overlap each other at portions corresponding to gaps between the pixels. Rather, Sekiguchi illustrates a color filter 11 in Fig. 22. To overcome this deficiency of Figure 22 of Sekiguchi, the Examiner contends that Sekiguchi, in Fig. 7, discloses the same configuration where the second transparent substrate has color filter layers (11), (12) and (13), and wherein peripheral portions of adjacent ones of the color filter layers overlap with each other at positions corresponds to the gaps between adjacent ones of the pixel regions (column 13, lines 49 - 53). Applicants note that Figure 7 of Sekiguchi represents a fourth embodiment, which merely indicates that the color filters 11, 12 or 13 are present at

the peripheral region of each pixel region 19. However, it is evident from Figure 7 that while a respective filter may be provided at a peripheral region of a respective pixel region 19, the pixel regions 19 are separated by the gaps (G), and the filters do not apparently extend into the gaps, and are not overlapped thereat. In contrast, see the overlapping of the color filters CF in Fig. 1A of the drawings of this application, and the corresponding description at page 12, lines 10 - 13 of the specification, noting that the color filters CF overlap with each other at positions corresponding to the gaps between adjacent ones of the pixel regions as shown in Fig. 1A of the drawings of this application. Thus, Sekiguchi, Figure 7 does not disclose the features concerning the overlap of color filter layers and it is apparent that Sekiguchi in Figure 22 or in Figure 7 thereof, fails to provide the claimed features as set forth in independent claim 1 and the dependent claims of this application. Thus, applicants submit that claims 1 - 3 patentably distinguish over Sekiguchi in the sense of 35 USC 103 and should be considered allowable thereover.

Turning to the rejection of claims 5 - 7 in which the Examiner combines Figure 22 of Sekiguchi with figures of the patent to Sakaguchi, applicants note that Figure 22 of Sekiguchi fails to disclose pixel regions arranged in a matrix and thus, does not disclose a reflecting film having slits at positions corresponding to gaps between adjacent ones of the pixel regions. Applicants note that Figure 1 of Sekiguchi, which is a different embodiment than Figure 22 does disclose pixel regions arranged in a matrix and slits at positions corresponding to gaps between adjacent ones of the pixel regions. However, Sekiguchi does not disclose "a light absorption film formed between the first transparent substrate and the reflecting film at positions corresponding to the slits as disclosed, for example, in Figs. 3A and 3B of the drawings of this application. The Examiner recognizes the deficiency with regard to

Figure 22 of Sekiguchi, and applicants submit that such deficiency is also present with regard to Figures 1 and 2 of Sekiguchi. Thus, the Examiner refers to the patent to Sakaguchi, contending that Figure 4 "discloses a light absorption film (3) (col. 7, lines 42 - 44) formed between a transparent substrate (2)(Abstract) and a reflecting film (4) in an organic electroluminescent panel". At the time of invention it would have been obvious to a person of ordinary skill in the art to form the liquid crystal display device of Sekiguchi with the absorption film of Sakaguchi." (emphasis added). As recognized by the Examiner, Sakaguchi is not directed to a liquid crystal display device, as disclosed by Sekiguchi, and as disclosed and claimed in this application. Thus, applicants submit that it cannot be considered obvious to utilize the teachings of the organic electroluminescent panel of Sakaguchi in the liquid crystal display panel of Sekiguchi, and that the combination as proposed by the Examiner represents a hindsight reconstruction attempt to utilizing the principle of "obvious to try" which is not the standard of 35 USC 103. See In re Fine, supra. Additionally, applicants note that the light absorption film 3 of Sakaguchi is a "charge generating layer" and it is not proper to combine the features of these two different types of panels or display devices. Further, while the Examiner contends that the light absorption film 3 which is described as a charge generating layer 3 in Sakaguchi, is formed between a transparent substrate 2 and a reflecting film 4, the disclosure of Sakaguchi is that reference numeral 2 represents a transparent electrode formed on a substrate 1, and reference numeral 4 represents a "charge transfer layer", such that it is not seen that Sakaguchi provides the features contended to be present by the Examiner. In any event, claim 5 recites the feature that the light absorption film which is formed between the first transparent substrate and the reflecting film is provided at positions corresponding to the slits, and it is apparent that such feature is

not disclosed or taught by Sekiguchi and/or Sakaguchi in the sense of 35 USC 103, such that claim 5 and the dependent claims 6 and 7 patentably distinguish thereover and should be considered allowable at this time.

With respect to the same combination of references in relation to claims 8 - 11, claim 8 differs from claim 5 in the feature of "a light absorption film with which the slits are charged". See Figures 4A and 4B of the drawings of this application, for example. On the other hand, it is apparent that assuming arguendo, that reference numeral 3 of Sakaguchi discloses a light absorption film, it is readily apparent that there is no disclosure or teaching in Sakaguchi that such light absorption film is charged in the slits of the reflecting film, noting that Sakaguchi, in accordance with the Examiner's description, shows no slits in the reflecting film 4, and the reflecting film 4 covers the light absorption film 3. As such, applicants submit that claim 8 and the dependent claims thereof, further patentably distinguish over this proposed combination of references in the sense of 35 USC 103 and all claims should be considered allowable thereover.

As to the rejection of claims 1 - 3 and 5 - 11 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1 - 11 of US Patent No. 6,697,137, as recognized by the Examiner, this rejection can be overcome by the submission of a terminal disclaimer. Without acquiescing in the propriety of the obviousness-type double patenting rejection set forth by the Examiner, in order to expedite issuance of this application, submitted herewith is a terminal disclaimer and the appropriate fee therefor. As such, this rejection should now be overcome.

In view of the above amendments and remarks, applicants submit that all claims present in this application should now be in condition for allowance and issuance of an action of favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 501.39982CX1), and please credit any excess fees to such deposit account.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Melvin Kraus', is written over a horizontal line.

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